IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 630 OF 2005

ALONGWITH

CIVIL APPLICAATION NO. 1550 OF 2005

Audumbur Harbaji Khawthekar & Anr. .. Appellants.

Versus

The Inspector, Asst. Charity Commissioner,
Solapur at Solapur & Ors. ..Respondents.

Shri I.M.Khairdi for the Appellants.
Shri V.B.Sakhare, AGP for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 13TH JUNE, 2005

P.C. :

1. Heard Advocate for the Appellants and Respondents.

2. The appellants, who were Chairman and Secretary

respectively of the Educational Trust, were removed from their respective position and therefore, this Appeal. Nine charges were levelled against the appellants/ opponents. They were :-

1. Opponents did not report of purchase of property plot No. 4747/3, admeasuring 663.69 Sq.Mtrs. for consideration fo Rs. 12,000/- on 05.09.1988.

2. The opponents made construction of 4 rooms on the said plot by investing amount of Rs. 1.40 lacs in the year 1988-89 without calling tenders.

3. Opponents obtained loan or borrowed money without obtaining prior permission of this authority under section 36(a) (3) of Bombay Public Trust Act, 1950.

4. They did not submit budget under section 31-A of the Bombay Public Trust Act, 1950.

5. They did not maintain register of movable and immovable property under section 36 (b) of Bombay Public Trust Act, 1950 read with Rule 24(a) of the Bombay Public Trust Rules,

1951.

6. The opponents had allowed one of trustees i.e. Opponent No.11 Miss Kusum Arade alone only to operate bank account No.79 inn Pandharpur Urban Co-operative Bank Pandharpur which is against Rules.

7. Opponents did not submit change reports u/s. 22 of the Bombay Public Trust Act, 1950 on the occurrence so far.

8. They willfully disobeyed the lawful orders issued by the Asstt. Charity Commissioner, Solapur vide Letter No. Insp/15-86/2592/86 dated 1/9/1986 and letter No. Insp/2368/89 dated 31/5/1989 AND

9. You opponents made persistent default in submission of Audit Reports and returns from 1974-75 to 1992-93.

3. These charges are held to have proved by evidence against the appellants. Counsel for the appellants contended, by relying upon the judgment of this court reported in 1990 (2) Bom. C.R. 702 in the case of Vajubhai Patel and Anr. vs. The Charity

Commissioner, Maharashtra State and Ors. ; wherein it has held that every technical deviation is not liable to be used against trustee. The charges levelled are not at all technical. The appellants who were Chairman and Secretary, were wholly incharge of the Trust. They were recklessly negligent and they have no respect for law for which they were made as trustees. The charges are serious and therefore, no interference is called for. The appeal is dismissed. Consequently, the civil application is also dismissed.

13.06.2005 (D.G. DESHPANDE,J.)

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